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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/173,828 10/16/98 VAZQUEZ

J

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QM02/0502

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EXAMINER
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KOCZO JR, M

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 05/02/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/173,828

Applicant(s)

Vazquez

Examiner

Michael Kocz, Jr.

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 26, 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-35 is/are pending in the application.
- 4a) Of the above, claim(s) 12, 13, 17-20, 25, 27, and 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-11, 14-16, 21-24, 26, 28-30, and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 3746

Applicant's election of the group I invention, without traverse, is acknowledged. Claims 12, 13, 17 to 20, 25, 27 and 31 to 34 therefore stand withdrawn from further consideration as being drawn to non-elected inventions.

The substitute specification of August 8, 2000 has not been entered because applicant has not furnished a statement that the substitute specification includes no new matter. A substitute specification will be accepted if applicant furnishes a statement that the substitute specification includes no new matter. Such statement must be a verified statement if made by a person not registered to practice before the Office (37 CFR 1.125, MPEP 608.01(q)).

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(l). Correction of the following is required:

There is no basis in the specification for terms such as "crankshaft", "intake port" and "intake manifold" when describing the combustion engine.

Claims 8 to 11, 14 to 16, 21 to 24, 26, 28 to 30 and 35 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite an "obliquely angled intake manifold" (claims 8 and 22) and an "obliquely mounted combustor" (claim 9). However, there is no reference frame for "obliquely". That is, relative to what line or surface are these structures oblique? An intake manifold or

Art Unit: 3746

combustor furthermore do not define a reference frame from which to determine obliqueness relative to another line.

The claims are furthermore functional and operational in form. See for example claim 8, lines 7 to 11.

In claim 8, line 12, "said position determined by the number of pistons..." is vague and indefinite. What is the relationship between the exhaust port location and the number of pistons?

Recitations such as "as described in operation main embodiments" (claim 9, line 5), "as demonstrated in figs. 2,6, 8, and 8a" (claim 16, line 4) are indefinite. It is improper for the claims to make direct reference to figures.

The preambles of the claims must be uniform. For example, claim 8 recites "A rotary piston continuous flow expandable chamber device" whereas claim 9, which depends from claim 8, recites "A rotary piston internal continuous combustion engine".

Much of the structure which is recited in the dependent claims is a double inclusion of structure. For example, claim 9 recites an "intake port", which is already recited in claim 8.

Because of the indefiniteness of the claims, the scope thereof cannot be ascertained.

Thorough revision of the claims is required in order to render them definite in form according to the statute.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly

Art Unit: 3746

connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention.

Claim 22 recites "said valve has means for controlling its position and movement...".

There is no description in the specification of structure for performing this function.

Claims 22 to 24, 26, 28, 29, 30 and 35 therefore stand rejected under 35 U.S.C. § 112, first paragraph, as being based on an inadequate disclosure.

The prior art has not been applied to the claims due to their extreme indefiniteness and basis on an inadequate disclosure.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

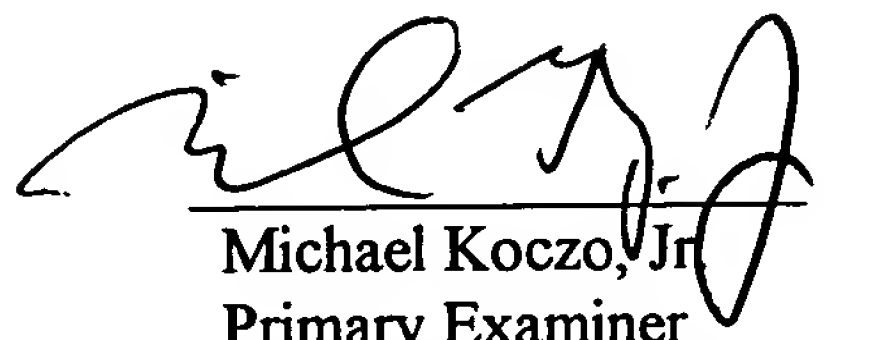
**A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE**

Application/Control Number: 09/173,828

Page 5

Art Unit: 3746

LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.



Michael Koczko, Jr.  
Primary Examiner  
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